

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA :
:
v. : CR 07-125-08 S
:
WILFREDO RIVERA :

REPORT AND RECOMMENDATION
FOR FURTHER REVIEW OF ABILITY TO MAKE PAYMENT

David L. Martin, United States Magistrate Judge

On March 2, 2009, this Magistrate Judge concluded that Defendant Wilfredo Rivera ("Defendant") appeared to have the financial ability to pay \$4,000.00 to the Clerk to partially offset the cost of his representation by the Federal Defender.

See Order Scheduling Hearing on Ability to Make Payment (Doc. #22) ("Order of 3/2/09") at 2. This determination was based on the fact that Defendant indicated on his Financial Affidavit that he had \$17,000.00 in a deposit box. See id. Accordingly, a hearing was scheduled for March 16, 2009, to allow Defendant to present any argument, testimony, or other evidence on his ability to pay \$4,000.00.

At the March 16, 2009, hearing, Defendant's counsel represented that Defendant did not presently have access to the deposit box and that the persons who have such access were not accepting Defendant's telephone calls. Given that Defendant is being detained and accepting as true the representation of his

counsel regarding Defendant's inability to access the money in the deposit box, the Court finds that Defendant does not presently have the ability to pay any amount to partially offset the cost of his representation by the Federal Defender. However, I recommend that Defendant's ability to pay be reviewed in the future as stated below.

Conclusion

For the reasons stated above, **I recommend that Defendant's ability to pay an amount to partially offset the cost of his representation by the Federal Defender be reviewed when Defendant is either released from custody or is sentenced.** Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within ten (10)¹ days of its receipt. See Federal Rule of Civil Procedure 72(b); District of Rhode Island Local Rule Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

¹ The ten days do not include intermediate Saturdays, Sundays, or holidays. See Fed. R. Civ. P. 6(a)(2).

/s/ David L. Martin
DAVID L. MARTIN
United States Magistrate Judge
March 16, 2009